

Appl. No. 10/824,298  
Docket No. 9211M  
Amdt. dated August 14, 2007  
Reply to Office Action mailed on July 18, 2007  
Customer No. 27752

applicants' elected compositions claims of examiner's Group I would necessarily encompass a search for the method claims of examiner's Group II.

In addition, even if the inventions are considered independent, there is no evidence that a search directed to both the compound claims and the method claims would be a *serious burden* on the examiner, as is required by M.P.E.P. §803. ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." and "There must be a serious burden on the examiner if restriction is not required."). This is especially applicable in the instant application wherein *all* claims are classified in class 424, subclass 401.

In particular, it is submitted that a complete search directed to the subject matter of the composition claims of examiner's Group I would require a search directed to the subject matter of the method claims of examiner's group II, and vice versa.

Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute the composition and method claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office to prosecute the composition and method claims in separate applications. Search and examination of both groups of claims in a single application would be much more efficient than requiring the Patent Office and applicants to do so in separate applications. Accordingly, it is submitted that all claims 1-17 should be examined at this time.

The Office Action also requires election of species. In particular, because applicants have provisionally elected Group I for examination, applicants are required to elect a single disclosed polymer and a single disclosed glycerol. Applicants respectfully traverse the election of species because there is no serious burden placed on the Examiner to consider all species.

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Under MPEP §806.01, a provisional election of a single species may be required where only generic claims are presented and the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary. Applicants respectfully asserts that there is no undue burden placed on the Office in examining all species.

With respect to the polymers, the claimed list of polymers contains only hydrophobic copolymers and terpolymers. Thus, searching of one group of hydrophilic polymers will also encompass the other group. Applicants respectfully assert that while the chemical structure of copolymers and terpolymers may differ, they are hydrophilic polymers that are commonly classed together for searching purposes. Thus, applicants respectfully assert that there is no undue burden placed on the Office in examining the claimed polymers.

Furthermore, if applicants are required to chose one polymer and one glycerol, applicants, in effect, would be required to file many divisional applications directed to each potential combination of polymer and glycerol. Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute numerous separate divisional applications. Search and examination of all species in a single application would be much more efficient than requiring the Patent Office to prosecute the various species in separate applications. Accordingly, it is submitted that all species should be examined at this time.

For these reasons, applicants submit that the election of species applied to the above-identified application is improper and should be withdrawn.

In the event that the examiner's election of species requirement is made final, applicants hereby provisionally elect the following species, with traverse:

- (a) Polymer – poly (2-hydroxyethyl methacrylate-co-4-hydroxybutyl acrylate) (e.g., claim 3);
- (b) Glycerol – glyceryl ether (e.g., claim 8).

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Claims readable on this elected species are claims 1-11, 16, and 17.

Reconsideration and withdrawal of the restriction and election of species requirements are respectfully requested. An early action on the merits is solicited.

Applicants reserve the right to pursue the non-elected species in one or more divisional applications.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By

  
Signature

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